

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REMARKS

Remarks:

First of all I need not accuse anyone of anything the facts speak for themselves.

I'll begin with the examiner's assertion of alleged new matter.

I know that new matter actually pertains to new "subject" matter and that said subject matter actually pertains to not merely what is written but, what is disclosed.

Furthermore, since the examiner never pointed out that my patent application never contained a functional "Detailed Description of the Invention", I voluntarily submitted one. I, also submitted a Statement of Irreparable Damage as required.

Therefore, the examiner can only object to the said description as a whole or not at all. Because, the whole description of the invention is added to the original application. The examiner has made several mistakes in procedure in the processing of my application. It is obvious from the latest ones that the examiner is not acting in my favor.

I called the examiner; Dirk Wright on 7-26-05, concerning seemingly improper claim listing; which he did not object to at the time. As we already know; 37 CFR-1.121 (g) allows the examiner to make exception to 37 CFR-1.121. Nevertheless, I have made correction to the claim listing.

I don't fault the examiner, I frankly; forgave him. If It were not for his adamant resistance of my patent application, I would never have acquired (or at least not exercised) my latest skill; writing. I am at presently working on the precepts of a novel. I'll call it; "The U.S Patent Offence" that's, if the title hasn't already been taken but, I doubt that. I find more interesting that, this present political party has become so self righteous that, it would impede the progress one man no matter what the risk or the consequence. Can't they see the writing on the wall. Even if one were to rob a murderer, wouldn't it still be considered robbery. Haven't any of you noticed coinciding events surrounding this invention. Think about it, then think again. Eventually, some of you will become very aware of yourselves. It is not I that, doest these things, It is your own doing. You step outside of the law when It benefits you; in the name of justice you do whatever you will. You are not against me but, whom I serve, and that not too well but; well enough at present. Sleep well with all your might, for tomorrow we may all have to fight. I'm just practicing right now. The next time there, wont be a next time. Do you really think that I am acting on my own accord. It is not possible, not even for me. I would not wish it.



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707.07(j) State When Claims Are Allowable [R-2] - 700 Examination of Applications

707.07(j) State When Claims Are Allowable [R-2]

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I. < INVENTOR FILED APPLICATIONS

When, during the examination of a *pro se* application it becomes apparent to the examiner that there is patentable subject matter disclosed in the application, the examiner should draft one or more claims for the applicant and indicate in his or her action that such claims would be allowed if incorporated in the application by amendment.

This practice will expedite prosecution and offer a service to individual inventors not represented by a registered patent attorney or agent. Although this practice may be desirable and is permissible in any case deemed appropriate by the examiner, it will be expected to be applied in all cases where it is apparent that the applicant is unfamiliar with the proper preparation and prosecution of patent applications.

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II. < ALLOWABLE EXCEPT AS TO FORM

When an application discloses patentable subject matter and it is apparent from the claims and applicant's arguments that the claims are intended to be directed to such patentable subject matter, but the claims in their present form cannot be allowed because of defects in form or omission of a limitation, the examiner should not stop with a bare objection or rejection of the claims. The examiner's action should be constructive in nature and, when possible, should offer a definite suggestion for correction. Further, an examiner's suggestion of allowable subject matter may justify indicating the possible desirability of an interview to accelerate early agreement on allowable claims.

If the examiner is satisfied after the search has been completed that patentable subject matter has been disclosed and the record indicates that the applicant intends to claim such subject matter, the examiner may note in the Office action that certain aspects or features of the patentable invention have not been claimed and that if properly claimed such claims may be given favorable consideration.

If a claim is otherwise allowable but is dependent on a canceled claim or on a rejected claim, the Office action should state that the claim would be allowable if rewritten in independent form.

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608.02(q) Conditions Precedent to Amendment of Drawing - 600 Parts, Form, and Content of Application

608.02(q) Conditions Precedent to Amendment of Drawing

See MPEP § 507 for changes to the patent drawings for purposes of a patent application publication.

If applicant wishes to amend the original drawings, at his or her own initiative, applicant is encouraged to submit new drawings as soon as possible, and preferably before allowance of the application.

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KEY: = online business system = fees = forms = help = laws/regulations = definition (glossary)

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*note: I know that amendment /
corrections to the drawings
are allowed.*

*note: I have over five-hundred hours
study time (USPTO website).*



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2163.07 Amendments to Application Which Are Supported in the Original Description [R-1] - 2100 Patentability

2163.07 Amendments to Application Which Are Supported in the Original Description [R-1]

Amendments to an application which are supported in the original description are NOT new matter.

I. REPHRASING

Mere rephrasing of a passage does not constitute new matter. Accordingly, a rewording of a passage where the same meaning remains intact is permissible. *In re Anderson*, 471 F.2d 1237, 176 USPQ 331 (CCPA 1973). The mere inclusion of dictionary or art recognized definitions known at the time of filing an application would not be considered new matter. If there are multiple definitions for a term and a definition is added to the application, it must be clear from the application as filed that applicant intended a particular definition, in order to avoid an issue of new matter and/or lack of written description. See, e.g., *Schering Corp. v. Amgen, Inc.*, 222 F.3d 1347, 1352-53, 55 USPQ2d 1650, 1654 (Fed. Cir. 2000). In *Schering*, the original disclosure drawn to recombinant DNA molecules utilized the term "leukocyte interferon." Shortly after the filing date, a scientific committee abolished the term in favor of "IFN-(a)," since the latter term more specifically identified a particular polypeptide and since the committee found that leukocytes also produced other types of interferon. The court held that the subsequent amendment to the specification and claims substituting the term "IFN-(a)" for "leukocyte interferon" merely renamed the invention and did not constitute new matter. The claims were limited to cover only the interferon subtype coded for by the inventor's original deposits.

II. OBVIOUS ERRORS

An amendment to correct an obvious error does not constitute new matter where one skilled in the art would not only recognize the existence of error in the specification, but also the appropriate correction. *In re Oda*, 443 F.2d 1200, 170 USPQ 268 (CCPA 1971).

Where a * foreign priority document under 35 U.S.C. 119 is of record in the >U.S.< application file, applicant may not rely on the disclosure of that document to support correction of an error in the pending >U.S.< application. *Ex parte Bondiou*, 132 USPQ 356 (Bd. App. 1961). This prohibition applies regardless of the language of the foreign priority documents because a claim for priority is simply a claim for the benefit of an earlier filing date for subject matter that is common to two or more applications, and does not serve to incorporate the content of the priority document in the application in which the claim for priority is made. This prohibition does not apply ** where the >U.S.< application explicitly incorporates **>the foreign priority< document by reference.

>Where a U.S. application as originally filed was in a non-English language and an English translation thereof was subsequently submitted pursuant to 37 CFR 1.52(d), if there is an error in the English translation, applicant may rely on the disclosure of the originally filed non-English language U.S. application to support correction of an error in the English translation document.<

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2163.07(a) Inherent Function, Theory, or Advantage - 2100 Patentability

2163.07(a) Inherent Function, Theory, or Advantage

By disclosing in a patent application a device that inherently performs a function or has a property, operates according to a theory or has an advantage, a patent application necessarily discloses that function, theory or advantage, even though it says nothing explicit concerning it. The application may later be amended to recite the function, theory or advantage without introducing prohibited new matter. *In re Reynolds*, 443 F.2d 384, 170 USPQ 94 (CCPA 1971); *In re Smythe*, 480 F. 2d 1376, 178 USPQ 279 (CCPA 1973). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.'" *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted).

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608.01(e) Reservation Clauses Not Permitted - 600 Parts, Form, and Content of Application

608.01(e) Reservation Clauses Not Permitted

37 CFR 1.79 Reservation clauses not permitted.

A reservation for a future application of subject matter disclosed but not claimed in a pending application will not be permitted in the pending application, but an application disclosing unclaimed subject matter may contain a reference to a later filed application of the same applicant or owned by a common assignee disclosing and claiming that subject matter.

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note: I have a provisional app.